

Asheville Tree Commission
Alternative Compliance Committee
Monday, September 15, 2014
Minutes

Members: Bob Gale (Chair); Mike Kenton and Amy Kemp

Staff Present: Nate Pennington (Development Services); Lora Morgan (Public Works); Jerry Yates (Public Works); Greg Shuler (Public Works); Mark Foster (Public Works)

Guest: Ronald Gates, Shelly Gates, Brian Morris, Derek Allen, Sue Schweikart, John Schweikart, Jayne Smith, and Legrand Smith.

CITY OF ASHEVILLE TREE COMMISSION
STAFF REPORT FOR ALTERNATIVE COMPLIANCE REQUEST

To: City of Asheville Tree Commission

From: Nathan Pennington, Plan Review Coordinator

Date: September 10, 2014

Meeting Date: September 15, 2014

Project Name: Greater Works Church

Location: 25 Forsythe Street

Pin: 9649.24.3580.00000

Zoning: RS-8

Acreage: 1.5 acres

Background and Description of Alternative Compliance Request:
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<p>In 2012, a zoning permit was issued as part of a Level II site plan review to re-establish a place of worship in a former church building. The UDO requires that site upgrades are made to sites that have been vacant for a period of two (2) years or more. The zoning permit to reestablish the church use included a site plan that demonstrated compliance with the Use by Right Subject to Special Requirements for places of worship located in residentially zoned districts specifically listed in Section 7-16-1(c)(55). The former church property is currently out of compliance with landscaping and impervious surface coverage standards including perimeter parking areas that are located within a required 25 foot setback of adjacent residential properties. Since this time, the Greater Works Church has been occupying the building under a Temporary Certificate of Occupancy (TCO) and in conjunction with a performance bond that ensures that site improvements will be completed before a permanent Certificate of Occupancy (CO) is issued.</p>

<p>The church has now decided to request alternative compliance to the following landscaping standards:</p>

<u>Requirement:</u>

<p>20 foot wide Type "A" property line buffer (761.35 LF) required along north, east and western perimeters of property consisting of 30 evergreen trees, 23 large deciduous trees, 23 small deciduous trees, 76 large shrubs and 76 small shrubs of which 50% are required to be evergreen. The approved plan utilized existing vegetation credits and proposed the following new plantings: 9 evergreen trees, 7 large deciduous trees, 76 large maturing shrubs and 76 small maturing shrubs.</p>
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Proposed Alternative:

An approximate 15 foot wide buffer that proposes only 4 additional evergreen trees, 2 large deciduous trees, 2 small maturing deciduous trees, 73 small/medium evergreen shrubs and 15 large deciduous shrubs. The proposed alternative deletes the 15 foot buffer within a 73 linear foot section along the northern perimeter and indicates a row of plantings on the adjacent property. The remaining required buffer width (5-20 feet) is proposed to be striped and labeled as "No Parking." It should be noted that the plan proposes to retain a large existing and invasive exotic stand of bamboo along the western perimeter of the buffer. **Deficiency – 5 evergreen trees, 5 large deciduous trees, 64 shrubs within the required buffer.**

Requirement:

One (1) deciduous tree and four (4) shrubs required for every 1,500 square feet of vehicular use area (VUA). At least 75 percent of the required deciduous parking lot trees must be large-maturing trees. Each parking space shall be located within 60 feet of a tree and 50 percent of required trees and shrubs must be planted in islands or medians located within the parking lot. The approved plan was based on 29,036 square feet of VUA (post asphalt removal to accommodate perimeter buffer area) and proposed four (4) new interior islands, nine (9) large maturing parking lot trees and 14 shrubs after utilizing existing vegetation credits.

Proposed Alternative:

The newest plan proposes to delete four (4) interior islands and includes four (4) large maturing trees, five (5) small maturing trees and 22 shrubs. **Deficiency – deletion of 4 interior islands, substitution of 5 large maturing trees with 5 small maturing trees. Further the VUA is now proposed to be larger due to the request to stripe off parking areas that are located in the required setbacks.**

Staff Findings:

Staff must evaluate alternative compliance requests based on the standards set forth in Section 7-11-3(e)(5) of the UDO (see attached). Based on these standards, staff has concluded that the following findings are of concern after careful evaluation of the application and new site plan:

1. The request appears to be primarily financially based and not based in physical constraints or hardships – the site has adequate area for both the landscaping and required parking.
2. The plan includes the retention of asphalt located in the buffer and appears to violate another use-by-right standard that limits the site to no more than 60% impervious surface coverage. **This standard, like the prohibition against parking in the required setbacks, may not be varied.**
3. A fully vegetated landscape buffer is designed to mitigate impacts from non-residential uses and to under plant these areas may do a disservice to those residential uses (the proposed plan is not "equal to or better" than the previously approved plan).
4. Landscape requirements are meant to address long-term impacts; the use of the property for a place of worship could change in the future and could present an even more significant land use conflict if not properly addressed now.
5. It is impractical to think that striping an area alone will prevent parking – this proposal would create an enforcement challenge.
6. The proposed plan does not appear to support the stated purpose of improving & protecting visual quality, providing environmental benefits and providing abating transitions between dissimilar zoning districts as found in Section 7-11-3(a) of the UDO.
7. The species composition is primarily non-native and does not support naturalizing in a woodland setting (see Section 7-11-3(d)(1)d of the UDO).

For the reasons listed above and after careful evaluation of the application and supporting site plan, staff recommends **denial** of the alternative compliance request.

Standards for Granting Alternative Landscape Compliance
Sec. 7-11-3(e)(5)

(5) *Alternative compliance standards.* No request for alternative compliance under this section may be approved unless the information provided in support of the request shows the following:

- i. The site in question is affected by physical conditions or constraints, not attributable to proposed site design or building design, that make compliance with the standard requirements practically impossible.
- ii. The physical conditions or constraints are not a result of the applicant's own actions.
- iii. The proposed alternative will not present a safety hazard.
- iv. That proposed alternative will, upon maturity, provide landscaping that is equal to or better than the standards requirements.
- v. The proposed alternative is designed to address plant health and vigor.
- vi. The proposed alternative is reasonably compatible with the natural and topographic features of the site.
- vii. The proposed alternative supports the purpose statement noted in 7-11-12(a).

Alternative Compliance supports staff's recommendations of denial.

The applicant had asked for an extenuation for next month to give them time to revisit the site and reevaluate the impervious service requirement, the islands, take a look at all the invasive species on the site and look at replacing them with noninvasive species.

Asheville Tree Commission
Monday, September 15, 2014
Minutes

Members Present: Mike Kenton (Tree Commission- Chair); Bob Gale (Tree Commission); Amy Kemp (Tree Commission); Brandee Boggs (Tree Commission); Richard Stiles (Bee City USA); Debbie Emmons (Tree Commission)

Staff Present: Jerry Yates (Public Works); Lora Morgan (Public Works); Mark Foster (Public Works); Cecil Bothwell (City Council); Greg Shuler (Public Works)

Guest: Mr. McDowell and wife, Tim Sadler, and Alison Arnold with the NC Extension Office.

The Asheville Tree Commission held its monthly meeting on **Monday, September 15, 2014, at 12:00 p.m.** in Room A-109 of the William F. Wolcott Public Works Complex at 161 South. Charlotte Street. Mike Kenton called the meeting order.

Mike welcomed everyone to the Tree Commission meeting.

The motion was made Brandee Boggs to approve the minutes from the August 18, 2014, 2014 Tree Commission meeting, Bob Gale seconded and the minutes were accepted unanimously.

Directors Report:
Greg Shuler

- Tree crews are back to full capacity on each crew
- Will start soon working on the budgets for next fiscal year

Tree- Related Activities:
Mark Foster

- Crews are very busy trying to keep up.
- The Asheville App is making an impact on our work load
- Currently working on tree grate replacements on Patton Ave. where sidewalk is buckling where the tree roots are running under the sidewalk.

Citizen Response Committee:
Mark Foster

- #4 Biltmore Avenue would like for someone to come out and take a look at the trees in front of their building. There are ones there they may need attention and some may need replaced. Meeting will be arranged for the CRC to go out and take a look. Bradford Pear and a Maple that need to be looked at.

TRC Committee Report:
Susan Roderick

- No report

Duke Energy Progress:
Roy Smith

- No Report

Bee City USA:
Phyllis Stiles

- Follow up from Pollination Celebration – over one thousand people were in attendance for this event.
- President Obama’s Memorandum in regards to “Creating a Federal strategy to promote the Health of the Honey Bee and other pollinators. US Fish and Wildlife will not be using pesticides on pieces that are responsible
- While in San Francisco Phyllis was able to meet with the Pollinator Partnership. They currently have a project with Bert’s Bees located in North Carolina. It will be farm related. The Secretary of Agriculture who has a special assistant name Bill Yarbrough, he has asked Bee City to become involved with the project that the Secretary wants to do around pollinators.
- Saturday was the West Asheville Garden tour. Bee City had two signs that were put up talking about pollinators, flowers, and pesticides. They had a significant turn out. They had sponsorships and underwriting.
- Organic fest last Sunday. Pictures on Bee City USA Facebook Page.
- Kim Bailey who recently moved to Fruitland, creates curriculum for school kids. Yesterday we planted fifty milkweed plants in the pollinator meadow at the Audubon site. Some of what is flowering out there now is 3- species of Aster, Mistflower, Goldenrod, Cardinal Flower, Evening Primrose and etc. What is happening because of this being a two year old project, coming up Monday, September 22, from 3:00 p.m. to 4:30 p.m. Cooperative Extension Agent, Alison Arnold and Master Gardener Debbie Green will lead a walk through the sanctuary with special focus on the pollinator meadow.
- Second Bee City in Talent, Oregon.

- The Chamber of Commerce and the Tourist Development Authority has agreed to allow us to place a Bee City USA sign in their pollinator friendly garden in front of the visitor center.

Blue Ridge Arborists Association:

Mike Davies/ Mark sub for Mike

- Blue Ridge Arborist non-profit paperwork is filed and now on to the insurance paperwork.
- November 15 in Black Mountain there will be an Arbor Day. There will be tree planting as well as tree maintenance work.

Asheville Greenworks:

Eric

- No report

Education Committee:

- Mike wanted to apologize to Debbie as well as the rest of the Tree Commission in regards to a misunderstanding in the email from Debbie about Tree Map being free. It was for the other cities not for ours.
- Question of the budget coming up if we could put in the request for funds for the Tree Map? We would like into it.
- Committee to work on a “pitch” as to why Tree Map is an asset to the Tree Commission, the City, and the citizens.
- Question if Jonathon’s friend was able to help with the cost of the Tree Map. It does not work out at this time.
- Dave Michelson had agreed to do the presentation to the Coalition of Asheville Neighborhoods on Open Tree Map in October 13 from 7 – 9, Mike is going to confirm. It will be at the Oakley Community Center.

Old Business and New Business:

- Webinar is September 30 from 11-12. It is online seminar on how to increase the value and efficiency of your tree board. It is about one hour. Mike will send the information to Lora to pass along. This is for Tree Board members. It is three parts, an hour each.

- Link is up for the Tree Commission Minutes on the website for Tree Commission and for Public Works.
- Forest Service has ITree app for free. Is there a way to connect Open Tree Map and ITree app? Debbie will check with Dave Michaelson to see if this is something we can do as far as linking them together. It the US Department of Agriculture Forest Service.
- *Protection of trees on private property:*

Mike and Cecil-

Cecil met with the new City Attorney and she felt that we could not designate all Trees of this size will fall under this umbrella. However, what we can do, we as the Tree Commission can come up with the strip definition of what we think an historic tree is and then City Council does have the power to protect the historic trees. It can be house by house or by neighborhood. We have to have the concrete definition and take it to Council. The current ordinance allows us to do that with the current property owner but there is no definition.

Mike will work on the definition of an historic tree and would like for us to have it ready to send up at the next meeting.

***Historic Tree of Asheville-

“Any tree that is of a variety included on the city’s Recommended Species List, having at the time of submission a dbh of twelve inches or larger, which is deemed by a resident to have historical significance. This could include, but is not limited to, connections to notable people and/or events. It could also include trees that the resident believes add to the character and/or charm of the city of Asheville.”

*** Please make changes or suggestions to Mike and he will make adjustments. Mike is waiting on a suggested change and will update everyone on the suggestion at the next meeting.

At the next meeting Mike would like to have Phyllis’ suggestions for the definition so he may go ahead with finalizing it.

**The next meeting is scheduled for
Monday, October 20, 2014**

